

**TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations
(Continuation of California Notice Register June 27, 2003, No. 26 –Z and July 11, 2003,
No 28-Z and Meetings of June 20 and August 2, 2003.)**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Section 355 of the Fish and Game Code and to implement, interpret or make specific sections 355, 356 and 3005 of said Code, proposes to amend section 507(c), Title 14, California Code of Regulations, relating to waterfowl regulations.

Updated Informative Digest/Policy Statement Overview

Current regulation prohibits the use of electronic or mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl from the start of waterfowl season through November 30. **This regulation was adopted in 2001 as a means of further evaluating the possible effect of electronic or mechanically operated spinning blade devices or spinning wing decoys. Alternatives to the existing regulation include: 1) no change (continue the November 30 prohibition); 2) eliminate all regulation of electronic or mechanically operated spinning blade devices or spinning wing decoys; 3) eliminate the use of electronic or mechanically operated spinning blade devices or spinning wing decoys; and 4) prohibit the use of all self-powered devices for waterfowl hunting.**

Existing analyses suggest that spinning blade devices or spinning wing decoys increase duck harvest, and this technological advance may have increased duck harvests to higher levels than would have occurred under normal conditions. **The imposition of the mid-season (November 30) prohibition on the use of electronic or mechanically operated spinning blade devices or spinning wing decoys reduced direct recovery rates of mallards banded in California, and the 2003 estimated breeding population of mallards in California increased 27 percent.** Overall duck harvests have been declining in California. In California, mallards comprise about 25% of the total duck harvest and the vast majority, especially early in the hunting season, of these mallards originate in California. However, this correlative analysis does not prove that the decline in the breeding population estimate was solely due to the increased use of electronic or mechanically operated spinning blade devices or spinning wing decoys because other factors (breeding success and over-winter survival) may have changed coincidentally.

Editorial changes may also be proposed to improve the clarity and consistency of the regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in **Flamingo Resort Hotel, Conference Center, 2777 4th Street, Santa Rosa, California, on Thursday, August 28, 2003, at 10:00 a.m.**, or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before **August 28, 2003** at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than **August 28, 2003**, at the hearing in Santa Rosa, CA. All written correspondence, including e-mail must include the true name and mailing address of the commenter.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Tracy L. Reed at the preceding address or phone number. Dan Yparraguirre, Department of Fish and Game, phone (916) 445-3685, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fq_comm/index.html.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 355 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation(s) are intended to provide additional recreational opportunity to the public. The response is expected to be minor in nature.

(b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

(c) Cost Impacts on a Representative Private Person or Business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: August 11, 2003

John M. Duffy
Assistant Executive Director